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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,887	08/17/2000	Diego Carmello	CARP-0083	3146

7590 04/03/2002

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EXAMINER

JOHNSON, EDWARD M

ART UNIT	PAPER NUMBER
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1754

DATE MAILED: 04/03/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/582,887

Applicant(s)

CARMELLO ET AL.

Examiner

Edward M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Convers et al. 4,460,699.

Regarding claims 10 and 30, Convers '699 discloses a fixed bed catalyst for oxychlorination comprising thin layers of high specific surface area material (see abstract and column 5, lines 3-8), gamma alumina (see column 4, lines 57-61), and salts of copper, magnesium, and lithium (see column 5, lines 20-30).

Regarding claim 16, Convers '699 discloses gamma alumina carrier (see column 4, lines 57-61), impregnation in several steps with aqueous solutions of the single reagent which is to be loaded onto the solid carrier (see column 1, lines 34-39) and salts of copper, magnesium, and lithium (see column 5, lines 20-30).

Regarding claim 11, Convers '699 discloses salts of copper, magnesium, and lithium (see column 5, lines 20-30).

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Regarding claims 12 and 17, Convers '699 discloses chloride salts (see column 5, lines 20-21 and 31-32).

Regarding claims 13-14 and 19-21, Convers '699 discloses 0.1-9% copper (see column 5, lines 22-27) and a 0.05-1.0 metal to Cu molar ratio (see column 5, lines 32-35).

Regarding claims 15 and 22-29, Convers '699 discloses gamma alumina carrier (see column 4, lines 57-61) a minimum carrier surface area of 50 square meters per gram (see column 1, lines 41-43) and carrier thickness of 0.001-1 mm (see column 2, lines 20-22).

Regarding claim 18, Convers '699 discloses gamma alumina carrier (see column 4, lines 57-61), impregnation in several steps with aqueous solutions of the single reagent, which is to be loaded onto the solid carrier (see column 1, lines 34-39) and salts of copper, magnesium, and lithium (see column 5, lines 20-30).

Response to Arguments

3. Applicant's arguments filed 2/12/02 have been fully considered but they are not persuasive.

It is argued that the Office Action asserts, *inter alia*, that Convers "discloses a fixed bed catalyst for oxychlorination..." This is not persuasive because Applicant does not claim any order of layers, contrary to Applicant's apparent

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suggestion. Applicant also does not claim a catalyst wherein the two layers are "adjacent to" one another facilitating "interaction between" the two layers, as Applicant appears to suggest. Rather, Applicant claims a catalyst comprising a support and two layers, first and second, with neither layer specified to be above or beneath the other. Since, as Applicant appears to admit, the cited prior art discloses a catalyst comprising a support and thin layers (plural) of the claimed materials, the claim is anticipated. It is noted that the features upon which applicant relies (i.e., a catalyst comprising a layer **followed by** another layer and **then** a layer, wherein the layers are "adjacent to" one another) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward M. Johnson whose telephone number is 703-305-0216. The examiner can normally be reached on M-F 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

EMJ

March 28, 2002